



## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1952

[Docket No. OSHA–2021–0012]

RIN 1218–AD43

### Arizona State Plan for Occupational Safety and Health; Proposed Reconsideration and Revocation; Withdrawal

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Reconsideration of Final Approval of State Plan; Withdrawal.

**SUMMARY:** OSHA is withdrawing its proposed reconsideration of the Arizona State Plan’s final approval status.

**DATES:** The proposed rule published on April 21, 2022, at 87 FR 23783, is withdrawn effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

**ADDRESSES:** *Docket:* To read or download comments and materials submitted in response to OSHA’s revocation proposal, go to Docket No. OSHA-2021-0012 at [www.regulations.gov](https://www.regulations.gov). All comments and submissions are listed in the [www.regulations.gov](https://www.regulations.gov) index; however, some information (e.g., copyrighted material) is not publicly available to read or download through that website. All comments and submissions are available for inspection and, where permissible, copying at the OSHA Docket Office, U.S. Department of Labor; telephone: (202) 693-2350 (TTY number: (877) 889-5627). Documents submitted to the docket by OSHA or stakeholders are assigned document identification numbers (Document ID) for easy identification and retrieval. The full Document ID is the docket number plus a unique four-digit code. For example, the full Document ID number for the comment submitted by the Industrial Commission of Arizona (ICA) and the Arizona Division of Occupational Safety and

Health (ADOSH), which is discussed in more detail below, is Document ID OSHA-2021-0012-0228. OSHA will identify this comment, and other comments in the rulemaking, by the term “Document ID” followed by the comment’s unique four-digit code.

**FOR FURTHER INFORMATION CONTACT:** *For press inquiries:* Francis Meilinger, OSHA Office of Communications, U.S. Department of Labor, Washington, DC 20210; telephone (202) 693-1999; email: meilinger.francis2@dol.gov.

*For general and technical information:* Douglas J. Kalinowski, Director, OSHA Directorate of Cooperative and State Programs, U.S. Department of Labor, Washington, DC 20210; telephone: (202) 693-2200; email: kalinowski.doug@dol.gov.

**SUPPLEMENTARY INFORMATION:** On April 21, 2022, OSHA published a *Federal Register* notice proposing reconsideration and revocation of OSHA’s final approval of the Arizona State Plan for Occupational Safety and Health pursuant to 29 CFR 1902.32(f), 9 CFR 1902.44(b), and 29 CFR 1902.47-.48 due to fundamental deficiencies in the Arizona State Plan (87 FR 23783) (revocation proposal). The concerns prompting the notice, discussed at length in OSHA’s revocation proposal, included Arizona’s failure to adopt adequate maximum penalty levels, occupational safety and health standards, National Emphasis Programs and, most recently, the COVID-19 Healthcare Emergency Temporary Standard (ETS) (87 FR 23785-87). Consequently, OSHA proposed reconsideration and revocation of Arizona’s 18(e) final approval determination until OSHA received satisfactory assurances that these fundamental deficiencies had been addressed and that Arizona remains committed to implementing a program for employee safety and health protection that meets the requirements of section 18(c) of the OSH Act.

Comments on OSHA's revocation proposal were initially due on May 26, 2022, and the notice tentatively scheduled an informal public hearing on the proposal to begin on August 16, 2022. However, OSHA extended the comment period to July 5, 2022 (87

FR 31442) in response to requests from the public. OSHA received 197 comments concerning the proposal during this initial comment period.

On July 5, 2022, the ICA and its subagency, the Arizona Division of Occupational Safety and Health (ADOSH) submitted a comment on the revocation proposal to advise OSHA that Arizona had completed several measures to address the concerns that OSHA identified (see Document ID 0228).

In response to this comment, on August 15, 2022, OSHA published a *Federal Register* notice that reopened the comment period on the revocation proposal to allow stakeholders further opportunity to comment on the proposed revocation in light of Arizona's efforts and postponed the informal public hearing (87 FR 50025). That extended comment period closed on October 14, 2022. OSHA received 28 additional comments during this extended comment period.

Arizona completed the following actions that address OSHA's concerns: adopted three outstanding final rules (Standards Improvement Project Phase-IV ("SIP-IV"), Beryllium in Construction and Shipyards, and Cranes and Derricks in Construction: Railroad Roadway Work); adopted an increase to its minimum penalties for serious and non-serious violations to match OSHA minimum penalty levels; passed a state law to ensure that Arizona's future maximum and minimum penalty levels will track OSHA's annual penalty level adjustments; passed a state law to authorize adoption of an ETS when either the ICA or OSHA deems the grave danger criteria met; and adopted the recordkeeping and COVID-19 log requirements in OSHA's COVID-19 Healthcare ETS as a permanent standard.

Additionally, in their comment on the revocation proposal, the ICA and ADOSH clarified that Arizona had adopted two National Emphasis Programs (NEPs) that OSHA had identified as not yet adopted by the State Plan, the NEP on Amputations in Manufacturing Industries, CPL 03-00-022 (adoption due June 10, 2020), and the NEP on

Respirable Crystalline Silica, CPL 03-00-023 (adoption due August 4, 2020), and responded to OSHA's concerns regarding Arizona's failure to provide OSHA with the required documentation of adoption of the National Emphasis Program on Trenching and Excavation, as required by statute and regulations (Document ID 0228). OSHA now has the required documentation of Arizona's adoption of these measures. Finally, Arizona asserted that it had updated its State Plan Application ("SPA") portal entries to accurately reflect adoption dates for NEPs and final rules (Document ID 0228).

Based on the foregoing, OSHA is withdrawing its proposal to reconsider the Arizona State Plan's final approval status.

#### **Authority and Signature**

Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC, 20001 authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor's Order No. 8–2020 (85 FR 58393 (Sept. 18, 2020)), and 29 CFR parts 1902, 1952, 1953, 1954, and 1955.

Signed at Washington, DC.

**Douglas L. Parker,**  
*Assistant Secretary of Labor for Occupational Safety and Health.*